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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,370	10/14/2005	Vasilios Orizaris	095309.56078US	4789

23911 7590 04/10/2008
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER

WILSON, KAITLIN A

ART UNIT	PAPER NUMBER
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3636

MAIL DATE	DELIVERY MODE
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04/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,370	Applicant(s) ORIZARIS, VASILIOS	
	Examiner KAITLIN A. WILSON	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/20/2008 has been entered.

Specification

2. The objections to the specification have been removed in response to the Applicant's Amendments.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 21 recites the limitation "the side flanks" on page 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

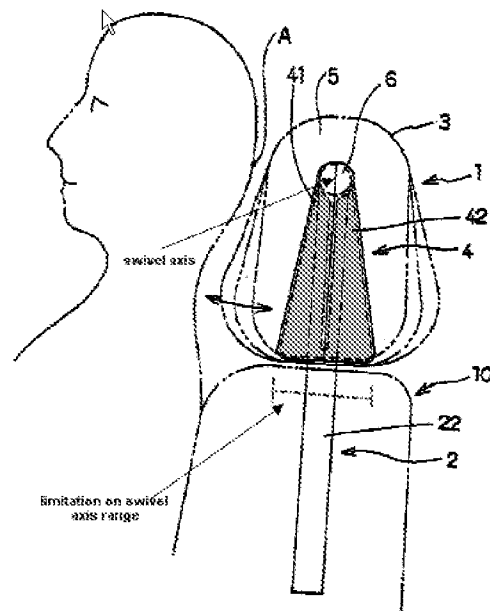
5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16 – 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakane et al. (US Patent Application 2001/0026091 A1) in view of Viano et al (US Patent 5,378,043).

7. In re Claim 16, with reference to Figure 1, Nakane et al. disclose a motor vehicle seat comprising:

- a seat back with a seat back support (10),
- a head support (1) attached to the seat back support (10) by a connection element (22)
- wherein the head support (3) defines an impact plate (4) on a side facing a vehicle passenger with a basically flat area (Figure 2) assuring secure retention of a head of a vehicle passenger during an accident
- wherein the impact plate (4) is positioned so for limited swivel (shown below) around a horizontal swivel axis (shown below, 6), so as guarantee two-dimensional contact between the head of the vehicle passenger and the impact plate during an accident.
- wherein the swivel axis (shown below) of the impact plate (4) is positioned in the vicinity of the head of the vehicle passenger on the impact plate (4)



8. The examiner notes that the impact plate (3) would inherently make, two-dimensional contact of the head on the head support (3) in the event of an accident due to the adjustable nature of the head support (3).

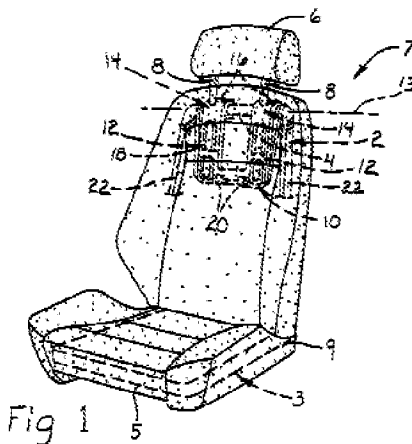
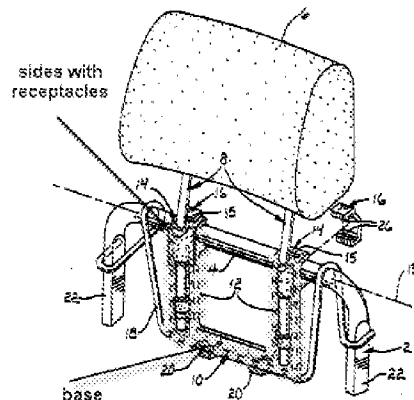
9. Nakane et al. fail to disclose an element aligned in the seat back, the element having a base facing the vehicle passenger, a pair of sides that receive the connection element and an open side oriented away from the vehicle passenger to an area behind the motor vehicle seat.

10. However, with reference to Figure 1, Viano et al. disclose a seat back with two side supports (12) down the length of the back, with two support elements (shown below).

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11. Additionally, with reference to Figure 4, Viano et al. disclose a straight base area (34) with the attachment portions for the element on the back of the plate, opening outward away from the passenger.

12. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the seat of Nakano et al. with the support channels of Viano that opening rearward with a base plate and a U-shaped profile, in order to provide increased comfort for the rider. It has been held that a mere reversal of the essential working parts (rotation of the headrest attachment to a rearward connection) of a device involves only routine skill in the art. In re Einstein, 8 USPQ 167.



16. In re Claim 19, with reference to Figure 1, Nakane et al. discloses that independent of the position of the seat back (10) as well as the head support (3), the head support (3) provides a support of the head (0008), and that the radius of the

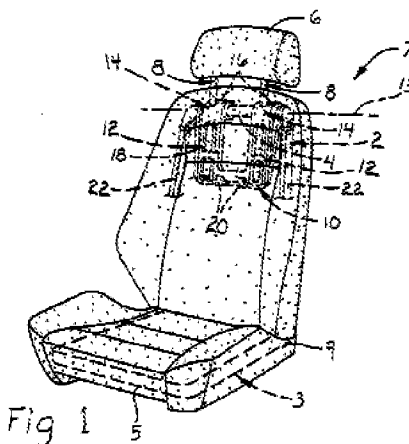
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connection element (22) and the forward deployed position in relation to an upper body of the vehicle passenger.

17. The examiner notes that the swivel movement of the headrest is considered to result in a forward deployed position of the head.

18. In re Claim 20, Nakane et al. disclose the seat and headrest as described above, but fail to disclose that the element aligned in the seat back is a transverse traverse with a U-shaped profile.

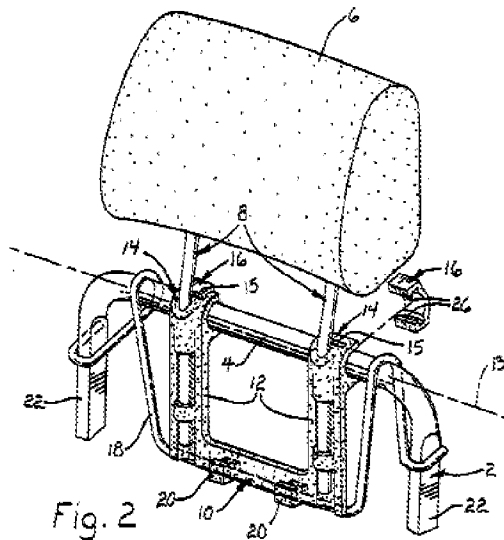
19. However, with reference to Figure 1, Viano et al. disclose a seat back with two side supports and down the length of the back, thus a cross-section of the seat would be in the shape of a U structure, but fails to disclose that the back support is included in the U-shaped structure.



20. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the seat back of Nakane et al. with the U-shaped seat back support and structure of Viano et al., in order to better support the back of the individual sitting in the seat. In addition, In re Dailey, 357 F.2d 669, 149 USPQ 47

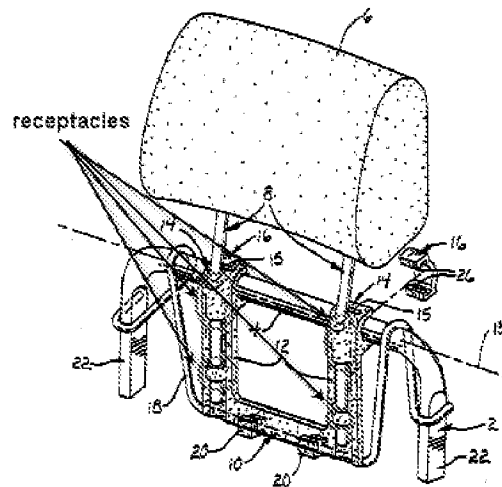
(CCPA 1966) The court held that the configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant.

21. In re Claim 21, with reference to Figure 2, Viano et al. disclose wherein the base (10) is longer than the side flanks (12).



22. In re Claim 22, with reference to Figure 2, Viano et al. disclose that the transverse traverse has a pair of receptacles for each connection element (22).

23. The examiner notes that the holes within the side portions are considered to be equivalent to the applicant's receptacles.



24. In re Claim 23, with reference to Figure 2, Viano et al. disclose that each receptacle is made in one of the side flanks (12).

25. In re Claim 24, with reference to Figure 1, the vehicle seat back assembly of Viano et al. inherently discloses that the transverse traverse facing sides of the seat back are inclined to the front through side arms of the seat back with shown curved area.

Response to Arguments

26. Applicant's arguments filed 03/20/2008 have been fully considered but they are not persuasive.

27. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAITLIN A. WILSON whose telephone number is (571)270-3206. The examiner can normally be reached on Monday - Friday (7:00am-4:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571)272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. A. W./
Examiner, Art Unit 3636

/David Dunn/
Supervisory Patent Examiner, Art Unit 3636